



STATE BOARD OF EQUALIZATION

20 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)

(916) 445-4982

WILLIAM M. BENNETT
First District, Kentfield

BRAD SHERMAN
Second District, Los Angeles

ERNEST J. DRONENBURG, JR.
Third District, San Diego

MATTHEW K. FONG
Fourth District, Los Angeles

GRAY DAVIS
Controller, Sacramento

CINDY RAMBO
Executive Director
No. 91/53

July 16, 1991

TO COUNTY ASSESSORS:

REFUNDS RESULTING FROM BASE YEAR VALUE CORRECTIONS

The purpose of this letter is to clarify two issues with respect to refunds of taxes paid when assessors correct base year value errors. The first issue is whether refunds may be required after the assessor corrects a base year value error involving his or her judgment as to value. The second issue is whether, in the event of a base year value correction, taxpayers may be entitled to claim a refund beyond the normal four-year statute of limitations.

Refunds and Assessor's Value Judgment

Some assessors have interpreted Revenue and Taxation Code Section 51.5 to mean that if a base year value is reduced by way of a correction involving the assessor's judgment as to value, the assessee may receive only prospective relief and is not entitled to a refund for taxes already paid. As we will discuss below, the Board staff's position is that refunds are required whenever a correction reduces the base year value (assuming taxes have been paid based on the erroneous base year value), whether the error involves the assessor's value judgment or not.

Section 51.5(a) requires that the assessor correct any error or omission in the determination of a base year value. Subdivision (b) provides that if the error or omission involves the exercise of the assessor's judgment as to value, the error may be corrected only if it is placed on the assessment roll within four years after July 1 of the assessment year for which the base year value was first established. Subdivision (d) provides that if a correction authorized by subdivisions (a) and (b) reduces the base year value, appropriate cancellations of assessments or refunds of taxes paid shall be granted. This mandate to grant appropriate cancellations of assessments or refunds of taxes paid expressly references both subdivision (a), relating to general base year value corrections, and subdivision (b), relating to corrections of errors or omissions involving the exercise of the assessor's judgment as to value. Thus, the language of Section 51.5 is clear in requiring refunds of taxes paid in either case.

Refunds Beyond Four Years

Section 5097 provides that refunds of taxes paid may be made, under specified conditions, on a claim filed within four years after making of the payment

sought to be refunded, or within one year after the mailing of notice as prescribed in Section 2635, or the period agreed to as provided in Section 532.1, whichever is later. Section 2635 provides that when the amount of taxes paid exceeds the amount due by more than ten dollars, the tax collector shall send notice of the overpayment to the taxpayer, stating that a refund claim may be filed pursuant to the provisions of Section 5096 and following. For the reasons stated below, the Board staff's view is that Section 2635 should not be construed as applying to base year value corrections under Section 51.5 so as to extend the four-year limit found in Section 5097.

Section 2635 may provide a mechanism for the county to make refunds beyond the normal four-year limit imposed by Section 5097, where, pursuant to Section 2635, the tax collector sends notice of tax overpayment to the taxpayer. The question is when does Section 2635 authorize or require the tax collector to send this notice? One interpretation is that the notice may be sent in any case where taxes have been overpaid, including where a base year value is corrected under Section 51.5. If, for example, a 1980 base year value is reduced in 1991 for a nonjudgmental error, it could be argued that the tax collector could notice the taxpayer who would then have one year in which to file a claim for refund for the entire 11-year period. This interpretation effectively removes the statute of limitations for refund claims. In theory, there would never be a time limit for refund claims arising from assessment reductions or other causes of tax overpayment since the tax collector could always give recognition for such overpayment and issue a Section 2635 notice creating a new one-year statutory period.

The Board staff's view is that Section 2635 should not be given such a broad interpretation. After reviewing the legislative history of that section, as well as related provisions of the code, we are of the opinion that Section 2635 requires the tax collector to issue an overpayment notice only when the amount of taxes paid exceeds the amount of taxes which are shown to be due on the tax rolls provided to the tax collector by the auditor and reflected in the tax bill sent to the taxpayer. We believe that the normal four-year limit under Section 5097 is applicable to Section 51.5 base year value corrections when a correction of a base year value brought about a revision of the amount of taxes due as shown on the tax rolls and the tax bills.

Bear in mind, that Section 2635 imposes a duty on tax collectors and not assessors. It is not within the purview of the Board to advise county tax collectors. Thus, the purpose of our advice with respect to Section 2635 is to inform assessors about possible consequences of correcting base year values more than four years after they are first established.

As a reminder, the base year value correction process mandated by Section 51.5 is independent of the assessment appeal provisions. Reductions in

TO COUNTY ASSESSORS

-3-

July 16, 1991

assessments under Section 80 apply for the assessment year in which the appeal is taken and prospectively thereafter.

If you have any further questions, please feel free to contact our Real Property Technical Services Unit at (916) 445-4982.

Sincerely,

A handwritten signature in black ink, appearing to read "Verne Walton". The signature is written in a cursive, flowing style.

Verne Walton, Chief
Assessment Standards Division

VW:sk